

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

KENNETH S. HARTZELL,

Plaintiff,

Case No. 3:17-cv-63

vs.

MIAMI COUNTY INCARCERATION
FACILITY,

Defendant.

District Judge Walter H. Rice
Magistrate Judge Michael J. Newman

**REPORT AND RECOMMENDATION¹ THAT: (1) *PRO SE* PLAINTIFF'S COMPLAINT
BE DISMISSED WITHOUT PREJUDICE; AND (2) THIS CASE BE TERMINATED ON
THE COURT'S DOCKET**

This *pro se* civil case is before the Court following issuance of an Order to Show Cause on August 15, 2017 (doc. 13), in which the undersigned ordered Plaintiff to show cause as to why this case should not be dismissed for his failure to comply with the requirements of Rules 8 and 10 of the Federal Rules of Civil Procedure; and further, why the case should not be dismissed for his failure to timely serve Defendants as required by Rule 4(m). To date, Plaintiff has neither responded to the Court's Order to Show Cause nor evidenced successful service of process on Defendants. Accordingly, this case is subject to dismissal. In light of the foregoing, the undersigned **RECOMMENDS** that: (1) *pro se* Plaintiff's complaint be **DISMISSED WITHOUT PREJUDICE**; and (2) this case be **TERMINATED** on the Court's docket.

Date: September 5, 2017

s/ Michael J. Newman
Michael J. Newman
United States Magistrate Judge

¹ Attached hereto is a NOTICE to the parties regarding objections to this Report and Recommendation.

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within **FOURTEEN** days after being served with this Report and Recommendation. This period is not extended by virtue of Fed. R. Civ. P. 6(d) if served on you by electronic means, such as via the Court's CM/ECF filing system. If, however, this Report and Recommendation was served upon you by mail, this deadline is extended to **SEVENTEEN DAYS** by application of Fed. R. Civ. P. 6(d). Parties may seek an extension of the deadline to file objections by filing a motion for extension, which the Court may grant upon a showing of good cause.

Any objections filed shall specify the portions of the Report and Recommendation objected to, and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation is based, in whole or in part, upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs.

A party may respond to another party's objections within **FOURTEEN** days after being served with a copy thereof. As noted above, this period is not extended by virtue of Fed. R. Civ. P. 6(d) if served on you by electronic means, such as via the Court's CM/ECF filing system. If, however, this Report and Recommendation was served upon you by mail, this deadline is extended to **SEVENTEEN DAYS** by application of Fed. R. Civ. P. 6(d).

Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140, 153-55 (1985); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).